

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Juan Eduardo Rodriguez Morales,

Petitioner,

Case No. 24-CV-3761 (JMB/DJF)

v.

Lisa Stenseth, Warden,

Respondent.

REPORT AND RECOMMENDATION

In a letter dated September 27, 2024, the Clerk of Court informed petitioner Juan Eduardo Rodriguez Morales that he would be required to pay the filing fee for this action or apply for *in forma pauperis* (“IFP”) status if he intended to prosecute this matter. (*See* ECF No. 2.) Mr. Rodriguez was given 15 days to pay the filing fee or submit an IFP application, failing which (he was warned) this action could be dismissed without prejudice. *See id.*

That deadline has now passed, and Mr. Rodriguez has not paid the filing fee or submitted an IFP application. In fact, Mr. Rodriguez has not communicated with the Court about this case at any point. Not only has Mr. Rodriguez not responded to the September 27, 2024 letter from the Clerk of Court, but another prisoner submitted the habeas petition that commenced this case on Mr. Rodriguez’s behalf. Thus, there is substantial reason to doubt that Mr. Rodriguez intends, or ever intended, to prosecute this habeas proceeding at this time.

The Court therefore recommends that this action be dismissed without prejudice under Rule 41(b) of the Federal Rules of Civil procedure for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to

comply with the Federal Rules of Civil Procedure or any court order.”). Mr. Rodriguez may reinstitute this proceeding if he decides to do so, but he should be mindful that there is a one-year limitations period for his habeas claims. He should not delay prosecuting his claims any longer than necessary for that reason.

RECOMMENDATION

Based upon the foregoing, and on all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: October 28, 2024

s/ Dulce J. Foster

Dulce J. Foster
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).